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March 17, 2022

**VIA ECF**

Honorable Jessica S. Allen, U.S.M.J.  
U.S. District Court for the District of New Jersey  
Martin Luther King Jr. Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

**Re: *Astellas Pharma Inc., et al. v. Sandoz Inc.***  
**Case No. 2:21-cv-13177 (JMV-JSA)**

Dear Judge Allen:

Pursuant to the Court's January 21, 2022 Order (D.I. 37), the parties submit this joint status letter in advance of the March 22, 2022 Telephone Status Conference. There are currently no disputes that require the Court's intervention.

**1. Status of Discovery-Related Tasks**

Defendant served its Invalidity and Non-Infringement Contentions on December 22, 2021. Plaintiffs served their Infringement Contentions and Responses to Defendant's Invalidity Contentions on February 14, 2022.

To date, Plaintiffs, collectively, have produced over 125,000 documents (over 1.4 million pages) in response to Defendant's document requests and/or pursuant to L. Pat. R. 3.2. This includes all documents previously produced by Plaintiffs, the invalidity contentions served on Plaintiffs, Plaintiffs' served interrogatory responses, the expert reports, and the deposition transcripts of Plaintiffs' fact and expert witnesses, and exhibits thereof, from the Xtandi® Capsule

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Actions.<sup>1</sup> Defendant has produced ANDA No. 216068 and correspondences between Defendant and FDA to date pertaining to that ANDA.

Fact discovery is ongoing.

## **2. Status of *Markman*-Related Tasks**

The parties are engaging in *Markman* disclosures and exchanges in accordance with the deadlines in the November 16, 2021 Scheduling Order (D.I. 29). Plaintiffs did not propose any claim terms for construction while Sandoz proposed three terms on February 18, 2022. Following those exchanges, for efficiency, the parties agreed that two of those terms, alleged as indefinite by Defendant, need not be briefed or decided during claim construction. Instead, they may be addressed by the parties during expert discovery and can be considered by the Court at a later time. Accordingly, the parties agreed to narrow the issues for resolution during claim construction.<sup>2</sup> The parties exchanged preliminary proposed constructions and identified supporting evidence on March 7, 2022, and will identify evidence they intend to rely on in opposition to the other party's proposed claim construction on March 21, 2022. The parties shall thereafter proceed in accordance with the applicable Local Patent Rules and the deadlines in the November 16, 2021 Scheduling Order (D.I. 29). The parties continue negotiating claim construction issues and will apprise the Court if any issues require the Court's attention.

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We look forward to appearing before Your Honor at the March 22 status conference.

Respectfully submitted,

*s/ Liza M. Walsh*

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<sup>1</sup> *Astellas Pharma Inc. et al. v. Actavis Labs. FL, Inc. et al.*, No. 16-1120 (D. Del.) (consolidated) and *Astellas Pharma Inc. et al. v. Eugia Pharma Specialties Ltd. et al.*, No. 17-757 (D. Del.).

<sup>2</sup> The parties are discussing whether and/or how to further memorialize this agreement. [By Sandoz: To that end, Sandoz has proposed a stipulation to Plaintiffs for consideration.]

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cc: All Counsel of Record (via ECF and Email)